HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No.7071 OF 2007

Between:

S. Peer Basha

…Petitioner

AND

The Government of Andhra Pradesh,
Rep., by its Secretary to Home Department,
Secretariat Buildings, Hyderabad
and three others

...Respondents

: O R D E R :

Counsel for the petitioner : Shri Poodattu Amarender

24th April, 2007

Per G.S.SINGHVI, CJ

This petition is directed against order dated 27-3-2006 passed by Andhra Pradesh Administrative Tribunal, Hyderabad (for short, 'the Tribunal') in Original Application No.8604 of 2003.

The petitioner joined service as Constable on 11-12-1973. He was promoted as Head Constable on 11-12-2001 and presently he is holding that post. While he was posted as Constable at Proddutur Police Station, a departmental enquiry was instituted against the petitioner on the following charge:

> "Disorderly and indisciplined behaviour in surrounding S.I. Sri Syama Prasada Rao while he was getting down from lorry at Porumamilla on 2-6-1981 at about 10-30 P.M. and trying to assault him and questioned in filthy language."

Shri Gopalakrishna, SDPO, who was appointed as Enquiry Officer, submitted report dated 15-5-1983 with the finding that the charge is proved. Deputy Inspector General of Police, Kurnool Range, Kurnool (respondent No.3) accepted the enquiry report and passed order dated 12-3-1984 whereby penalty of reduction of time scale of pay by four stages for a period of four years with future effect was imposed on the petitioner. On appeal, Special Inspector General of Police (Law and Order), Andhra Pradesh (respondent No.2) vide his order dated 19-4-1985 modified the penalty and directed that the same would operate for two years without future effect on increments. The petitioner claims that he filed revision against the appellate order, but the same was not decided.

After 19 years of the imposition of penalty and 18 years of the disposal of his appeal, the petitioner filed an application under Section 19 of the Administrative Tribunals Act, 1985 (for short, 'the Act') for quashing orders dated 2-3-1984 and
19-4-1985. The Tribunal dismissed the application by observing that

the same is hopelessly time-barred.

Undeterred by a rather curt observation made by the Tribunal on the maintainability of the application filed by him, the petitioner has invoked the jurisdiction of this Court under Article 226 of the Constitution of India.

Shri P. Amarender, learned counsel for the petitioner made strenuous efforts to convince us that the view taken by the Tribunal on the entertainability of the application filed by his client is erroneous, but we have not felt impressed. Rather, we are convinced that this petition is a vexatious piece of litigation, which deserves to be dismissed summarily.

The Tribunal is a creature of the statute. Therefore, it is bound by the parameters laid down by the Legislature for entertaining the applications filed under Section 19 of the Act for adjudication of disputes relating to service matters, as defined in Section 3 (q) of the Act. Sections 19, 20 and 21 of the Act, which have bearing on this case, read as under:

> **19. Applications to Tribunals**
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> (1) Subject to the other provisions of this Act, a person aggrieved by any order pertaining to any matter within the jurisdiction of a Tribunal may make an application to the Tribunal for the redressal of his grievance.
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> **Explanation-** For the purpose of this sub-section, "order" means an order made-
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> (a) by the Government or a local or other authority within the territory of India or under the control of the Government of India or by any corporation [or society] owned or controlled by the Government; or
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> (b) by an officer, committee or other body or a agency of the Government or a local or other authority or corporation [or society] referred to in Clause (a).
>
> (2) Every application under sub-section (1) shall be in such form and be accompanied by such documents or other evidence and by such fee (if any, not exceeding one hundred rupees) in respect of the filing of such application and by such other fees for the service or execution of processes, as may be

prescribed by the Central Government.

(3) On receipt of an application under sub-section (1), the Tribunal shall, if satisfied after such inquiry as it may deem necessary, that the application is a fit case for adjudication or trial by it, admit such application; but where the Tribunal is not so satisfied, it may summarily reject the application after recording its reasons.

(4) Where an application has been admitted by a Tribunal under sub-section (3), every proceeding under the relevant service rules as to redressal of grievances in relation to the subject-matter of such application pending immediately before such admission shall abate and save as otherwise directed by the Tribunal, no appeal or representation in relation to such matter shall thereafter be entertained under such rules.

20. Application not to be admitted unless other remedies exhausted.

(1) A Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of all the remedies available to him under the relevant service rules as to redressal of grievances.

(2) For the purpose of sub-section (1), a person shall be deemed to have availed of all the remedies available to him under the relevant service rules as to redressal of grievances,-

(a) If a final order has been made by the Government or other authority or officer or other person competent to pass such order under such rules, rejecting any appeal preferred or representation made by such person in connection with the grievance; or

(b) where no final order has been made by the Government or other authority or officer or other person competent to pass such order with regard to the appeal preferred or representation made by such person, if a period of six months from the date on which such appeal was preferred or representation was made has expired.

(3) For the purposes of sub-sections (1) and (2), any remedy available to an applicant by way of submission of a

memorial to the President or to the Governor of a State or to any other functionary shall not be deemed to be one of the remedies which are available unless the applicant had elected to submit such memorial.

21. Limitation.

(1) A Tribunal shall not admit an application,-

(a) in a case where a final order such as is mentioned in Clause (a) of sub- section (2) of Section 20 has been made in connection with the grievance unless the application is made, within one year from the date on which such final order has been made;

(b) in a case where an appeal or representation such as is mentioned in Clause (b) of sub-section (2) of Section 20 has been made and a period of six months had expired thereafter without such final order having been made, within one year from the date of expiry of the said period of six months.

(2) Notwithstanding anything contained in sub-section (1), where-

(a) the grievance in respect of which an application is made had arisen by reason of any order made at any time during the period of three years immediately preceding the date on which the jurisdiction, powers and authority of the Tribunal becomes exercisable under this Act in respect of the matter to which such order relates; and

(b) no proceedings for the redressal of such grievance had been commenced before the said date before any High Court, the application shall be entertained by the Tribunal if it is made within the period referred to in Cl. (a), or, as the case may be, Cl. (b), of sub-section (1) or within a period of six months from the said date, whichever period expires later.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), an application may be admitted after the period of one year specified in Clause (a) or Clause (b) of sub-section (1) or, as the case may be, the period of six months specified in sub-section (2), if the applicant satisfies the Tribunal that he had sufficient cause for not making the application within such period."

An analysis of the above reproduced provisions shows that an application filed for adjudication of the grievance made by an

employee in relation to service matter can be entertained only if it is filed within the period of limitation prescribed under sub-section (1) or sub-section (2) of Section 21. If the aggrieved employee cannot file application within the period of limitation, then he/she can apply under sub-section (3) of Section 21 for condonation of delay. A conjoint reading of Sections 19 and 21 makes it clear that an application filed by the government servant/employee is required to be scrutinised by the Tribunal from the point of view of its maintainability. If the Tribunal is satisfied that the application has been filed after expiry of the period of limitation prescribed under sub-section (1) or sub-section (2) of Section 21, as the case may be, then it is duty bound to dismiss the application unless an application for condonation of delay is filed under Section 21 (3).

In the present case, the application was filed in 2006 for quashing orders dated 2-3-1984 and 19-4-1985. This means that the petitioner had sought intervention of the Tribunal after 22 years counted from the date of punishment and 21 years counted from the date of the appellate order. In the application, the petitioner did not spell out any cause, what to say of showing sufficient cause for not challenging the order of punishment and the appellate order within the period of limitation prescribed under Section 21 (2) of the Act. Therefore, the application was liable to be dismissed at the threshold. However, without applying mind to this patent defect in the application, the Tribunal not only entertained the same, but kept it pending for three years without realising that for defending such frivolous application, the State had to engage an advocate, appoint an officer-in-charge and file pleadings and documents. This must have cost the public exchequer a lot. If the Tribunal had taken little trouble to scan the application, as per the requirement of Section 19, the public exchequer would have been saved of unnecessary expenditure which it had to incur for defending the application.

Learned counsel for the petitioner submitted that his client had

filed an application under Section 21 (3) and the same was ordered. However, no material has been placed on the record of this petition to show that the Tribunal had passed an order for condonation of delay after issuing notice and giving opportunity of hearing to the respondents herein. Therefore, we do not have the slightest hesitation to ignore the one word pronouncement, if any, made by the Tribunal. In any case, such cryptic adjudication cannot enure to the petitioner's advantage because the same was made without issuing notice to the respondents and we do not see any reason to interfere with the final order vide which the application was dismissed as barred by time.

In the result, the writ petition is dismissed. We would have saddled the petitioner with exemplary costs, but refrain from doing so because he is holding the post of Head Constable, which is just one above the lowest post in the cadre.

As a sequel to dismissal of the writ petition, WPMP No. 9001 of 2007 filed by the petitioner for interim relief is disposed of as infructuous.

G.S. SINGHVI, C.J.

C.V. NAGARJUNA REDDY, J.

24th April, 2007
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